

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

DANIEL H. KINZIE, M.D.

Holder of License No. 16046
For the Practice of Allopathic Medicine
In the State of Arizona

Case No. MD-07-1117A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Daniel H. Kinzie, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver,

1 express or implied, of the Board's statutory authority or jurisdiction regarding any other
2 pending or future investigation, action or proceeding. The acceptance of this Consent
3 Agreement does not preclude any other agency, subdivision or officer of this State from
4 instituting other civil or criminal proceedings with respect to the conduct that is the subject
5 of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof) to
13 the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that will
21 be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

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6
7 Daniel H Kinzie M.D
8 DANIEL H. KINZIE, M.D.

DATED: 06-02-08

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for the regulation and control of
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of license number 16046 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. The Board initiated case number MD-07-1117A after receiving notification
7 that Respondent was disciplined by the Texas Medical Board (TMB). On November 30,
8 2007, Respondent and TMB entered into a Mediated Agreed Order.

9 4. The TMB Order stated Respondent failed to meet the standard of care in his
10 care and treatment of thirteen patients at a minor emergency clinic. The violations included
11 a lack of appropriate evaluation of patient complaints and physical symptoms; no
12 treatment plans and no rationale for medical intervention; non-therapeutic prescribing;
13 failure to maintain adequate medical records and failure to adequately supervise staff.
14 Respondent denied the Findings of Fact and Conclusions of Law; however, he entered
15 into the agreement. The TMB Order is incorporated as referenced.

16 **CONCLUSIONS OF LAW**

17 1. The Board possesses jurisdiction over the subject matter hereof and over
18 Respondent.

19 2. The conduct and circumstances described above constitute unprofessional
20 conduct pursuant to A.R.S. §32-1401(27)(o) ("[a]ction that is taken against a doctor of
21 medicine by another licensing or regulatory jurisdiction due to that doctor's mental or
22 physical inability to engage safely in the practice of medicine, the doctor's medial
23 incompetence or for unprofessional conduct as defined by that jurisdiction and that
24 corresponds directly or indirectly to an act of unprofessional conduct prescribed by this
25 paragraph. The action taken may include refusing, denying, revoking or suspending a

1 license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise
2 limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on
3 probation by that jurisdiction."), specifically, A.R.S. § 32-1401(27)(e) ("[f]ailing or refusing
4 to maintain adequate records on a patient."); A.R.S. § 32-1401(27)(j) ("[p]rescribing,
5 dispensing or administering any controlled substance or prescription-only drug for other
6 than accepted therapeutic purposes."); A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice
7 that is or might be harmful or dangerous to the health of the patient or the public.") and
8 A.R.S. § 32-1401 (27)(ii) ("[l]ack of or inappropriate direction, collaboration or direct
9 supervision of a medical assistant or a licensed, certified or registered health care provider
10 employed by, supervised by or assigned to the physician.").

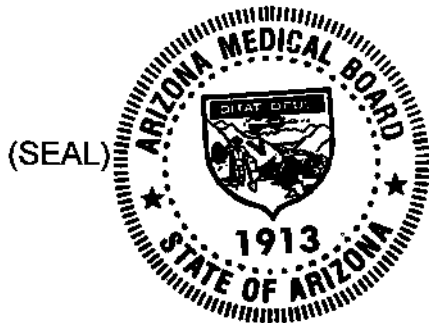
11 **ORDER**

12 **IT IS HEREBY ORDERED THAT:**

13 1. Respondent is issued a Letter of Reprimand for action taken by another
14 state.

15 2. This Order is the final disposition of case number MD-07-1117A.

16 DATED AND EFFECTIVE this 20th day of August, 2008.



20 ARIZONA MEDICAL BOARD

21 By


Lisa S. Wynn
Executive Director

22 ORIGINAL of the foregoing filed
23 this 20th day of August, 2008 with:

24 Arizona Medical Board
25 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

1 EXECUTED COPY of the foregoing mailed
2 this 20 day of August, 2008 to:

3 Daniel H. Kinzie, M.D.
4 Address of Record

5 Chris Bump
6 Investigational Review
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LICENSE NO. G-8562

IN THE MATTER OF

THE LICENSE OF

DANIEL HARPINE KINZIE, IV, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

MEDIATED AGREED ORDER

On the 30 day of November, 2007, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Daniel Harpine Kinzie, IV, M.D. ("Respondent").

On September 22, 2006, Respondent appeared in person, with counsel Ace Pickens, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Dinah Brothers represented Board staff. The Board's representatives were Annette P. Raggette, a member of the Board, and Janet Tornelli-Mitchell, M.D., a member of the District Review Committee.

A mediation conference was held on November 28, 2007. Respondent appeared with counsel, Ace Pickens. The Board was represented by Annette P. Raggette, a member of the Board. Board staff was represented by Mark Martyn.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Mediated Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the "Act") or the Rules of the Board.

2. Respondent currently holds Texas Medical License No. G-8562. Respondent was originally issued this license to practice medicine in Texas on August 23, 1985. Respondent is also licensed to practice in North Carolina, Arizona, California, and Virginia.



3. Respondent is primarily engaged in the practice of emergency medicine. Respondent is not board certified.

4. Respondent is 72 years of age.

5. Respondent has not previously been the subject of disciplinary action by the Board.

6. Respondent failed to meet the standard of care in his treatment of thirteen patients at a minor emergency clinic. There were multiple violations of the standard of care including: a) lack of appropriate evaluation of patients' complaints and physical symptoms; b) no plan for treatment provided to patients and no rationale for the medical intervention provided; c) nontherapeutic prescribing that included giving patients multiple prescriptions or prescribing multiple medications that had the same or similar mechanisms of action; d) failure to maintain adequate medical records for the treatment provided; and e) failure to adequately supervise staff.

7. Respondent denies the Findings of Fact and Conclusion of Law. Respondent has cooperated in the investigation of the allegations related to this Mediated Agreed Order. Respondent's cooperation, through consent to this Mediated Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Mediated Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against a physician based on a physician's failure to practice medicine in an acceptable professional manner consistent with public health and welfare.

3. Sections 164.052(a)(5) and 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against a physician based on a physician prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

4. Section 164.053(a)(8) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to supervise adequately the activities of those acting under Respondent's supervision.

5. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of Board Rule 165, which requires the maintenance of adequate medical records.

6. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

7. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through a Mediated Agreed Order.

8. Section 164.002(d) of the Act provides that this Mediated Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

9. This Mediated Agreed Order is not a restriction on Respondent's medical license.

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that:

1. Within one year from the entry of this Order, Respondent shall enroll in and successfully complete the medical records-keeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program, or an equivalent program approved in advance by the Executive Director of the Board. To obtain approval for a course other than the PACE course, Respondent shall submit in writing to the Director of Compliance for the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall deliver documentation of attendance and successful completion of this requirement to the Director of Compliance for the Board on or before the expiration of the time limit set forth for completion of the course.

2. For a period of one year from the date of this Order, Respondent's practice shall be monitored by a physician ("monitor"), in accordance with §164.001(b)(7) of the Act. The Compliance Division of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in a similar specialty area as Respondent. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

a. As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected patient medical records ("selected records"). The Compliance Division shall select records for at least thirty patients seen by Respondent during each three-month period following the last day of the month of entry of this Order ("reporting period"). The Compliance Division may select records for more than thirty patients, up to ten percent of the patients seen during a reporting period. If Respondent fails to see at least thirty patients during any three-month period, the term of this Order shall be extended until Respondent can submit a sufficient number of records for a monitor to review.

b. The monitor shall perform the following duties:

- 1) Personally review the selected records;
- 2) Prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent's practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
- 3) Perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent's practice.

c. The Compliance Division shall provide to Respondent a copy of any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division.

d. The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients.

e. Respondent shall be in full compliance of the chart monitor's recommendations before this Order terminates.

3. After the first monitor report is issued, Respondent shall prepare within 30 days of the monitor report and submit to the Compliance Division a written plan to address the areas of deficiencies, if any, with medical records identified by the chart monitor.

4. Respondent shall be allowed to supervise physician assistants and/or advanced nurse practitioners.

5. Within one year following the entry of this Order, Respondent shall take and pass with a score of 75 or above the Medical Jurisprudence Examination ("JP Exam") given by the Texas Medical Board. Respondent is allowed three attempts to successfully pass this examination.

Respondent's failure to take and pass the JP Exam within three attempts within one year following the entry of this Order shall constitute a violation of this Mediated Agreed Order. After a committee of the Board or a panel of Board representatives (Board Representatives"), has considered the information related to Respondent's violation of this provision and has determined that Respondent has not fulfilled the requirements of this provision, Respondent's medical license shall be immediately suspended pursuant to correspondence to Respondent from the Executive Director or Secretary-Treasurer of the Board indicating that Board Representatives have considered the information related to Respondent's violation of this provision and have determined that Respondent has not fulfilled the requirements of this provision. Although Respondent shall be invited to provide information or testimony to the Board Representatives, Respondent specifically waives any administrative due process under the Medical Practice Act, or the Administrative Procedure Act, for the Board Representatives to consider this information. **THIS SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE MEDICAL PRACTICE ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS AND ALL RIGHTS OF APPEAL.** Respondent shall be notified of any suspension by certified mail, return receipt requested to Respondent's last known address on file with the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent takes and passes the JP Exam and subsequently appears before the Board in person and provides sufficient evidence which, in the discretion of the Board, is adequate to show that Respondent possesses

the skills and knowledge to safely practice in Texas and is otherwise physically and mentally competent to resume the practice in this state.

6. Within one year of entry of this Order, Respondent shall obtain 30 hours of Continuing Medical Education (CME) approved for Category I credits by the American Medical Association/American Osteopathic Association in the subject area of prescribing medications. Upon completion of the required CME, Respondent shall submit proof to the Board of successful completion of the CME. A copy of attendance certificates or a detailed report that can be readily verified by the Board shall satisfy this requirement. The CMEs are addition to the requirements of licensure.

7. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

8. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this Order and a basis for disciplinary action against Respondent pursuant to the Act.

9. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within ten days of the address change. This information shall be submitted to the Permits Department and the Director of Compliance for the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

10. The time period of this Order shall be extended for any period of time that (a) Respondent subsequently resides or practices outside the State of Texas, (b) Respondent's license is subsequently canceled for nonpayment of licensure fees, or (c) this Order is stayed or enjoined by Court Order. If Respondent leaves Texas to live or practice elsewhere, Respondent shall immediately notify the Board in writing of the dates of Respondent's departure from and subsequent return to Texas. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the extended Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension.

11. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that ten days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Mediated Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

12. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for 12 months following entry of this Order. If, after the passage of the 12-month period, Respondent requests an amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter. This Order shall terminate without further Board action on completion of Ordering Paragraphs Nos. 1, 2, 3, 5, and 6.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS MEDIATED AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

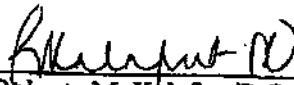
I, DANIEL HARPINE KINZIE, IV, M.D., HAVE READ AND UNDERSTAND THE FOREGOING MEDIATED AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 11-28, 2007.

Daniel H Kinzie MD

Daniel Harpine Kinzie, IV, M.D.
Respondent

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
30 day of November, 2007.



Roberta M. Kalafut, D.O., President
Texas Medical Board